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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/815,598	03/23/2001	Anthony Frank Menninger	41556/04736 (RS11P082)	7210
22428	7590	02/10/2005	EXAMINER	
FOLEY AND LARDNER SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			GORT, ELAINE L	
			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 02/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/815,598

Applicant(s)

MENNINGER, ANTHONY FRANK

Examiner

Elaine Gort

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 7-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Double Patenting

1. Claims 1-6 and 19 are provisionally rejected under the judicially created doctrine of double patenting over the claims of list found below of copending applications. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending applications and the instant application are claiming common subject matter, such as a system for managing a supply chain utilizing a network which all participants of the supply chain have access to data, price quotes and forecasting capabilities.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

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The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shavit et al. (US Patent 4,799,156) in view of Microsoft Computer.**

Shavit et al. discloses the claimed method for analysis version control in a supply chain management framework but is silent regarding the use of a graphical user interface.

Microsoft Dictionary discloses that it is known in the art to provide a graphical user interface to allow a user to select and activate icons, menus, and dialog boxes on a screen by pointing and clicking with a mouse or with the keyboard. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the method of Shavit et al. with the graphical user interface taught in the Microsoft Computer Dictionary, in order to allow a user to select and activate icons, menus, and dialog boxes on a screen by pointing and clicking with a mouse or with the keyboard.

Shavit et al. discloses a method for analysis version control (such as performing the preparation of bids from requests for quotation (RFQ)) within a supply chain management framework (for example see figure 2) comprising:

Maintaining a plurality of separate versions (bids/quotes) of an analysis in a database (the bids/quotes are generated and sent and stored in a database for delivery to buyers who can keep it for later reference, for example see column 11, lines 65+ and column 13, lines 20+);

Receiving a request for an additional version of the analysis (buyers may modify their requests and retransmit the RFQ several times, column 13, lines 31+; buyers may generate one or more RFQ's to different buyers column 12, lines 54+ and column 13, lines 10+);

Generating the additional version of the analysis in response to the request (once the RFQ (request) is received the system begins to prepare a bid/quote, for example see column 13, lines 16+);

Allowing a plurality of parameters of the additional version to be changed, wherein the parameters include a number of supplier sources (for example users may change suppliers and can also make changes for bids based on the distributor's choices presented in their menus, column 12, lines 54+);

(claim 2) Where the additional version of the analysis is named in accordance with a variance associated with the additional version (each quote is saved as a document file and inherently must be named with a different name which indicates a variance in order to differentiate the different bids, column 11, lines 65+ discuss that document files are generated);

(claim 4) where the analysis is a least cost analysis (Examiner is broadly construing this term to incorporate that the bid is generated and based on the lowest

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possible cost at which the seller wishes to offer the products/services to the buyer; also the goal of the buyer in using this system is to procure products or services for the lowest cost possible in order to increase profitability); and

(claim 5) where the request is received utilizing a network (for example see figures 1 and 2 and column 5 lines 15+ which disclose a computerized network system for interactive communications of buyers and sellers at remote sites).

Regarding claims 3 and 6, regarding the use of icons and the ability to change versions (requests for bids/quotes) utilizing a plurality of fields on the graphical user interface, it would have been obvious to one of ordinary skill in the art of computer software design to provide a user when desiring to request an additional version of the analysis (bid/quote) of Shavit et al. with the ability to select an icon and/or modify a plurality of fields within a graphical user interface as taught by Microsoft Dictionary in order to select the option and change parameters by pointing and clicking with a mouse or with the keyboard.

4. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shavit et al. (US Patent 4,799,156) and Microsoft Computer, as modified above and further in view of e-Commerce Solutions for Supply Chain Management: A Comparative Review.

Shavit et al. and Microsoft Dictionary, as modified above, discloses the claimed method for analysis version control in a supply chain management framework but is

silent regarding the ability to run an optimal product routing analysis for a plurality of lanes if necessary.

e-Commerce Solutions for Supply Chain Management: A Comparative Review discloses, in page 47, that it is known in the art to provide an optimal product routing analysis for a plurality of lanes to provide planning for supply chain participants.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the method of Shavit et al. and Microsoft Dictionary, as modified above, with the optimal product routing analysis for a plurality of lanes as taught by e-Commerce Solutions for Supply Chain Management: A Comparative Review, in order to allow supply chain participants to plan future activities in the supply chain.

Response to Arguments

5. Applicant's arguments filed 10/22/04 have been fully considered but they are not persuasive.

Applicant has argued that Shavit et al. does not disclose separate versions of an analysis being maintained in a database that are available for use. The Examiner contends that Shavit et al. does disclose separate versions (bids/quotes) of an analysis being maintained in a database, such as when the bids/quotes are generated and sent and stored in a database for delivery to buyers who can keep it for later reference, for example see column 11, lines 65+ and column 13, lines 20+. These bids/quotes are saved for later use by the buyer and supplier.

Applicant has argued that the bids/quotes of Shavit et al. do not read on the plurality of separate versions of a least cost analysis that has been run multiple times of the claimed invention. The Examiner contends that Shavit et al. does disclose a plurality of separate versions of a least cost analysis that has been run multiple times as it has the capability to modify quotes and obtain different quotes. For example users may obtain quotes from different suppliers and can also make changes for bids based on the distributor's choices presented in their menus, column 12, lines 54+ which are separate versions of a least cost analysis.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elaine Gort whose telephone number is (703)308-6391. The examiner can normally be reached on Monday through Thursday from 7:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski, can be reached at (703)308-5183. The fax phone number for the organization where this application or processing is assigned is (703)872-9327.


Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1113.



Elaine Gort

Examiner, Art Unit 3627

January 29, 2005



ROBERT P. OLSZEWSKI
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